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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,956	01/25/2002	Eric McKinlay	50642.00027	8430
31894	7590	03/27/2006	EXAMINER	
OKAMOTO & BENEDICTO, LLP			DINH, DUNG C	
P.O. BOX 641330			ART UNIT	
SAN JOSE, CA 95164			PAPER NUMBER	
			2153	

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/056,956

Applicant(s)

MCKINLAY ET AL.

Examiner

Dung Dinh

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

Applicant's arguments filed 1/3/06 have been fully considered but they are moot in view of a new ground of rejection below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --*

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 35-36 and 39-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Kraenzel et al. US patent 6,742,026.**

As per claim 35, Kraenzel teaches a method for initiating a software download, the method comprising:

providing a web page to a client computer (col.18 lines 35-41 download page 230);

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offering to provide a software application to a user of the client computer (services, application and subscriptions, col.19 lines 5-15, lines 45-53, col.35 lines 45-50); and

only if the user specifically agrees to receive the software application by so responding to a security prompt (col.33 line 52 to col.34 lines 5, lines 12-27), downloading the software application to the client in chunks (packets).

As per claim 36, Kraenzel teaches the network is Internet (inherent from the usage of HTTP and web server (col.9 - col.10)).

As per claims 39-40, they are rejected under similar rationales as for claim 39-40 above.

#### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

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**Claims 37, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraenzel et al. US patent 6,742,026.**

As per claims 37 and 41, Kraenzel provides security prompts (fig.26 steps 553 to 556). Kraenzel does not specifically disclose the security prompt is a VeriSign™ prompt. It is well known in the art that VeriSign™ is one of the largest provider security certification to authenticate web sites. Hence, it would have been obvious for one of ordinary skill in the art to use VeriSign™ security prompt.

**Claims 1-34, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraenzel et al. US patent 6,742,026 and further in view of Turner et al. US patent 7,003,554.**

As per claim 1, Kraenzel teaches a method of initiating software download, comprising:

accessing via a network a page of a web site utilizing a browser application (col.34 lines 11-15), wherein a plug-in application resides in the web site (col.9 lines 22-33);

determining whether the client computer is suitable for receiving the plug-in application (fig.26 step 551 - the login progress);

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downloading the plug-in application from the web site to the client computer if the client computer is determined suitable (fig.26 step 557);

Kraenzel does not teach the plug-in downloads a download manager and the download manager downloads software application in chunks to the client computer. Kraenzel uses the plug-in to directly download the applications (col.35 lines 45-50).

In similar field of software download, Turner teaches downloading to the client a download manager (col.4 lines 5-25 software delegate 112). The download manager permits downloading of large application (network object 106) in chunks (portions) in the background so as not to interfere with the user usage of the network (col.4 lines 25 to 47). Hence, it would have been obvious for one of ordinary skill in the art to combine the teaching of Turner with Kraenzel to have the plug-in download a download manager because it would have improved the system by permitting downloading of large files in the background while permitting the user full use of the network bandwidth.

As per claim 2, Kraenzel teaches the plug-in is Active X or Javascript (col.9 lines 24-32).

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As per claim 3, Kraenzel teaches the browser requires the user authorization to download the plug-in application (col.34 lines 15-27).

As per claim 4, Kraenzel teaches displaying a message to the user (fig.26 steps 553 to 556).

As per claim 5, Kraenzel does not specifically teach displaying another web page if the authorization to download the plug-in is denied. However, it would have been obvious for one of ordinary skill in the art to display another web page such as page with further information on the plug-in or the provider so as to persuade the user to authorize the installation of the plug-in.

As per claim 6, Kraenzel does not specifically teach storing the authorization in the client. It is well known in the art to store information in client (e.g. in cookies). It would have been obvious to store the authorization in the client because it would have enabled the usage of the plug-in at another time without having to ask for the user permission again.

As per claim 7, Kraenzel does not specifically disclose determining the suitability include determining the number of times the client computer has accessed the web site. It is well known in the art to limit the number of time a client can

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attempt to log in to a web site. It would have been obvious for one of ordinary skill in the art to determine the suitability of the client computer to include the number of times the client computer has attempted to access the web site because it would have improved the security of the system.

As per claim 8, Kraenzel does not specifically teach displaying another web page if the client computer is determined to be unsuitable (e.g. the client is not logged in). However, it is well known in the art to display an error page for login failure. It would have been obvious for one of ordinary skill in the art to display another web page such as an error page so as to indicate that the user has not been successfully logged in.

As per claim 9, Kraenzel does not specifically teach displaying a license agreement prior to downloading of the plug-in. However, it would have been obvious for one of ordinary skill in the art to do so because it would have provided a legal protection for the provider and/or a legal claim against the user for misuse of the application.

As per claim 10, Kraenzel does not specifically teach using another web site to perform the suitability determination. It is well known in the art to use a third party to authenticate a user. It would have been obvious for one of ordinary skill in



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the art to contract with another web site to authenticate the user because it would have enabled the usage of a security site specialized in the process to perform the function.

As per claim 11, Kraenzel does not specifically teach launching another window to determine the suitability of the client computer. It is well known in the art to provide login prompt via the same web page or in a separate window. Each has its own advantage and disadvantages. The usage of either method would have been readily apparent to one of ordinary skill in the art and would have been an obvious variation from each other. It would have been obvious to one of ordinary skill in the art to use a separate window because it would maintain separation of the initial page from the login prompt and permit each to be modified separately.

As per claims 12-22 and 23-33, they are system and computer readable medium carrying out functions equivalent to the method claims 1-11. Hence, they are rejected under similar rationale as for claims 1-11 above.

As per claim 34, it is rejected under similar rationale as for claims 1 + 7 above.

As per claim 38, Kraenzel does not specifically teach downloading a download manager. The obvious rationale is the same as that stated for claim 1 above.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (571) 272-3943. The examiner can normally be reached on Monday-Friday from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (571) 272-3949.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Dung Dinh', with a long, sweeping horizontal line extending to the right.

Dung Dinh  
Primary Examiner  
March 20, 2006